

MINUTES OF THE MEETING  
OF THE CITY COUNCIL OF THE  
CITY OF BURLINGTON  
April 17, 2007  
9:00 A.M.

The City Council of the City of Burlington held a regularly scheduled meeting in the Council Chamber, Municipal Building, 425 South Lexington Avenue, Burlington, N. C., 27216-1358, on April 17, 2007, at 9:00 a.m.

Mayor Stephen M. Ross presided

Councilmembers present: Mayor Ross, Councilmembers Jones, Huffman, Starling and Wall

Councilmembers absent: None

Harold Owen, City Manager, present

Robert M. Ward, City Attorney, present

Jondeen D. Terry, City Clerk, present

INVOCATION: Councilmember Don Starling

MINUTES

Mayor Ross called for approval of the City Council work session minutes of April 2, 2007, and of the April 3, 2007, City Council meeting.

Upon motion by Councilmember Wall, seconded by Councilmember Starling, it was resolved unanimously to approve the minutes of the meetings held on April 2 and April 3, 2007.

ADOPTION OF AGENDA

Upon motion by Councilmember Huffman, seconded by Councilmember Wall, it was resolved unanimously to adopt the agenda.

CONSENT AGENDA:

1. A) To approve a new credit card agreement with Wachovia Bank and to authorize the City Manager to execute the contract.

B) Budget Amendment 2007-32 - General Fund-Financed Equipment

BA2007-32

Increase Revenues:

010-38100-0000	Proceeds from Installment Financing	\$398,000
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Increase Expenditures:

010-58583-7400	Equipment (Sanitation/PW Dept)	\$305,000
010-56562-7400	Equipment (Streets/PW Dept)	60,000
010-62623-7400	Equipment (San.St.Clean/PW Dept)	11,000
010-62626-7400	Equipment (Bld&Grnds/Rec.Dept)	22,000

Increase Revenues:

010-38100-0000	Proceeds from Installment Financing	\$520,180
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Increase Expenditures:

010-43493-7402	Equipment (Engineering Dept.)	\$ 5,000
010-44441-7400	Equipment (Finance Dept.)	1,500
010-45470-7400	Equipment (IT Dept.)	72,000
010-47471-7400	Equipment (Legal Dept.)	4,000
010-48481-7400	Equipment (HR Dept.)	1,500
010-49490-7400	Equipment (GIS Div./Plan. Dept.)	3,500
010-49491-7400	Equipment (Planning Dept.)	4,000
010-49492-7400	Equipment (Inspections)	3,500
010-51511-7400	Equipment (Police Dept.)	283,280
010-51513-7400	Equipment (Records/Police Dept.)	1,500
010-51514-7400	Equipment (TAPS/Police Dept.)	2,000
010-51516-7400	Equipment (Opers/Police Dept.)	2,000
010-53535-7400	Equipment (Emer.Resp/Fire Dept.)	31,200
010-56562-7400	Equipment (Streets/PW Dept.)	4,800
010-57572-7400	Equipment (Cemetery/PW Dept.)	65,000
010-62623-7400	Equipment (San.St.Clean/PW Dept.)	11,000
010-62626-7400	Equipment (Bld&Grnds/Rec.Dept.)	6,400
010-62631-7400	Equipment (IVGC/Rec. Dept.)	18,000

Upon motion by Councilmember Jones, seconded by Councilmember Huffman, it was resolved unanimously to approve the foregoing consent agenda.

PUBLIC HEARINGS:

ITEM 2: PUBLIC COMMENTS - PROPOSED COMMUNITY DEVELOPMENT  
PROGRAM - 2007-08 ONE-YEAR ACTION PLAN

A public hearing had been scheduled to hear citizen comments on the proposed Community Development Program 2007-08 One-Year Action Plan.

Assistant Planning Director Susan Taylor stated that a draft of the proposed one-year action plan had been on file and had been publicized and this was the 30-day comment period to accept comments. Ms. Taylor stated that the Community Development program should receive \$447,676.00 from Community Development Block Grant Funds to be used for a combination of public infrastructure and facilities, construction training program and North Park Library. The HOME Program was for housing and expected to receive \$231,931.00 for the City and the County program would receive \$114,000.00. Ms. Taylor stated that the City had received for the fifth year the American Dream Down Payment Funds to be used for down payment assistance.

Mr. Kep Paylor, North Carolina Homebuilders Association (NCHA,) stated that he was part of the construction training partnership that included a unit of local government, NC Finance Agency and the Homebuilders Association. He stated that the NCHA provides construction training that includes hands-on, bookwork that prepares people to get jobs or work on housing projects. Mr. Paylor thanked the Council for being a part of the Community Development plan in the past and asked to be considered in the future.

Upon motion by Councilmember Jones, seconded by Councilmember Starling, it was resolved unanimously to close the public hearing.

ITEM 3: AMEND CONDITIONAL BUSINESS REZONING - RELOCATION AND  
UPGRADING OF EXISTING OUTDOOR ADVERTISING SIGN

Mayor Ross announced that a public hearing had been scheduled to consider amending a Conditional Business rezoning for Alamance Crossing approved by City Council on April 20, 2004, and amended June 7, 2005. The amendment would allow for the relocation and upgrading of an existing outdoor advertising sign. The property

is located on the east side of University Drive, south of Garden Road and west of Westview Terrace and being as shown on Alamance County Tax Map 3-24-17.

Councilmember Jones asked to be recused from consideration of this item due to his law partner's involvement.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to allow Councilmember Jones to rescuse himself from consideration on this item.

Mr. Lawson Brown, Vernon, Vernon, Brown, Andrews & Garrett, PA, stated that this issue had come before the Council with a unanimous recommendation from Planning and Zoning Commission. He stated that a dilapidated sign needed to be moved back 10 feet and that he had resolved all issues with the North Carolina Department of Transportation. He stated that the sign would be relocated and updated to a monopole sign.

Upon motion by Councilmember Huffman, seconded by Councilmember Wall, it was resolved unanimously to close the public hearing.

Councilmember Huffman moved the adoption of the following ordinance:

07-12

ORDINANCE TO AMEND CONDITIONAL BUSINESS REZONING TO ALLOW RELOCATION AND UPGRADING OF EXISTING OUTDOOR ADVERTISING SIGN

BE IT ORDAINED by the City Council of the City of Burlington, North Carolina:

Section 1. That representatives of CBL and Associates and Alamance Crossing have requested that the Conditional Business rezoning previously approved by City Council on April 20, 2004, and amended June 7, 2005, be amended to allow the relocation and upgrading of an existing outdoor advertising sign to within ten feet of the current location. The property is located on the east side of University Drive, south of Garden Road and west of Westview Terrace and being as shown on Alamance County Tax Map 3-24-17.

Section 2. That the amendment to the Conditional Business rezoning to allow the relocation and upgrading of an existing

sign within ten feet of its current location is hereby authorized subject to the property complying with all previously approved Use and Development Conditions.

Section 3. This property will be perpetually bound to the uses authorized and subject to such conditions as imposed including site plans and other submissions, unless subsequently changed or amended as provided for in the City of Burlington Zoning Ordinance.

Section 4. Any violations or failure to accept any conditions and use limitations imposed herein shall be subject to the remedies provided in the City of Burlington Code of Ordinances and Zoning Ordinance.

Section 5. That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

The foregoing ordinance was seconded by Councilmember Starling, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Huffman, Starling and Wall. Councilmember Jones abstained.

#### ITEM 4: REZONE PROPERTY - NORTH CHURCH STREET

Mayor Ross announced that a public hearing had been scheduled to consider rezoning from R-9, Residential District, to B-2, General Business District, the property located on the north side of North Church Street approximately 360 feet southeast of McKinney Street and being as shown on Alamance County Tax Map 13-10-21.

Mr. Charles Bateman, Batemen, Oertel & Koonts, PLLC, asked that the public hearing be continued to May 1, 2007.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to continue the public hearing to May 1, 2007, at 7:30 p.m.

ITEM 5: REZONE PROPERTY - HOTEL AND OFFICE COMPLEX - DANBROOK DRIVE AND BONNAR BRIDGE PARKWAY

Mayor Ross announced that a public hearing had been scheduled to consider rezoning from R-15, Residential District, to CPEC, Conditional Planned Employment Center, to allow construction of a full service hotel and office complex. The property is located on the southwest corner of Danbrook Drive and Bonnar Bridge Parkway and being as shown on Alamance County Tax Map 3-23-44.

Councilmember Wall asked to be recused from consideration of this item due to his involvement with the new school.

Upon motion by Councilmember Starling, seconded by Councilmember Jones, it was resolved unanimously to allow Councilmember Wall to be recused.

Mr. Frank Longest, Holt, Longest, Wall, Blaetz & Moseley, PLCC, representing Five-Star Investments and the owners of the property, stated that the request had been approved unanimously by the Planning and Zoning Commission and would include a full-service hotel with 116 rooms, 67,000 square-foot conference center, and an office complex. He said the facility would be aesthetically pleasing and would be a benefit to Elon University, Davidson Park and the business community. He stated that the office area would be a 20,000-foot structure with 104 parking spaces, curb, gutter, and sidewalk improvements for Danbrook Road and Bonnar Bridge Parkway. The two entrances and exits to the site are far removed from the intersections of Danbrook Road and Bonnar Bridge Parkway and was in compliance with the recommendation of the traffic consultant, Rainey Kemp and Associates, Raleigh, which was one of the premier traffic consultants and was recognized by the North Carolina Department of Transportation. This company conducted a traffic survey and had determined the site preparations as far as acceptable entrance and exits.

Ms. Helen Leupold, parent of three children slated to attend the new Highland Elementary School, spoke in opposition of the rezoning due to safety and location of the proposed hotel.

Ms. Cath Kiwitt, who moved to Burlington from Los Angeles, spoke in opposition of the rezoning due to safety concerns.

Ms. Martha Jacoby, Williams Mill Road, spoke in opposition of the rezoning due to safety concerns.

Ms. Patricia Zeigler, Mackintosh on the Lake Subdivision, spoke in opposition of the rezoning due to the location and safety concerns.

Mr. Celo Faucette spoke in opposition of the rezoning due to the proposed development not being a good fit for the neighborhood.

Ms. Tammy Floyd, parent of two children slated to attend the new Highland Elementary School, spoke in opposition of the rezoning due to the location and asked that the hotel be turned so that the rooms did not have a direct line of sight to the school. Ms. Floyd also asked about a barrier.

Ms. Kiki Folger stated she works at Alamance Regional Medical Center and that her husband is on staff at Elon University. She spoke in opposition of the rezoning due to safety concerns and said that the City is creating situations of risk.

S/Sgt. Terry Buckner stated that he supervised the School Resource Officers, DARE Officers and Juvenile Officers. S/Sgt. Buckner stated that those officers and the Police Department worked closely with the Alamance-Burlington School System. S/Sgt. Buckner stated that meetings with principals and officials were held when needed.

Chief of Police Mike Gauldin stated that the Police Department takes very seriously its role in providing public safety with the school system. He stated that officers try to devote as much police presence as possible in each school to serve as a deterrent. He stated that through an OASIS program that uniformed officers spend time in each of the elementary schools focusing primarily on kindergarten to second graders. He stated that the department has an excellent working relationship with all school officials.

Ms. Leupold commended the Police Department for what it does and stated that she was not concerned with what happened inside the school buildings but was with the easy access of stalkers. She asked that the hotel structure be turned so that no guest rooms have any line of sight to the school.

Councilmember Jones commented that this was a major intersection in Burlington and asked what would one expect to put on a major intersection in a community but commercial development. He stated that the Council did not choose where the new school would be built.

Councilmember Jones stated that in today's society we should not allow any of our kids to play outside without adult supervision. He stated that this was a different world and that the school board should be addressing a lot of the parents' concerns about lockdowns, gates and security and asked if their concerns had been addressed to the school board as well.

Ms. Leupold stated that they had just found out about this last week and that the Council was now making decisions that would impact their children. She noted that the parents were not even their constituents but it was not right. Ms. Leupold stated that they became aware of the rezoning request last week and if they had known this during the redistricting meeting they would have been vocal and would have contacted the school board.

Councilmember Huffman stated that the Council had been struggling over five years with the total overall development of the entire area. He stated that back in 1999 the taxpayers went to the polls and voted to put in a sewer outfall and that prior to that none of that land could have been developed. Councilmember Huffman stated that the Council had tried to put together land use plans with compatible uses.

Ms. Kiwitt asked the Council if they really wanted the money or if they wanted to help the kids.

Mr. Longest stated that his client operated high-end hotels and that the operator of the hotel would require photo identification and the vehicle license tag as part of the registration process. Mr. Longest pointed out that the principal operator of the facility would be living at Lake Mackintosh and has a young child and therefore will have the same concerns.

Mr. Mark Reich, Alley, Williams, Carmen & King, stated that the elevations of the two buildings were approximately the same.

Mrs. Leupold expressed concern about not having been notified about the possible rezoning, and Councilmember Starling pointed out that a sign with a phone number was posted on the property. He further emphasized that other development requests were forthcoming, that it is called a "hot spot" because of the intersection with the interstate. He reiterated to pay attention to the yellow signs and to contact the City.



Councilmember Jones explained that the rezoning was publicly advertised, the property was posted, and if contiguous, landowners were notified by first class mail.

Mrs. Leupold asked if there could be better communications.

Councilmember Jones explained that residents could make a request to be notified by an email from the City.

Upon motion by Councilmember Starling, seconded by Councilmember Huffman, it was resolved unanimously to close the public hearing.

Councilmember Huffman moved to approve the rezoning request. He thanked the groups for being there.

Councilmember Jones seconded the motion and stated that school systems across the nation would have to spend time and considerable dollars as it relates to the protection of kids. He stated that the City Council should try to provide the safest environment possible for both the children and the community. He explained to those who spoke that they had been heard even though the decision was not what they liked and he asked them to understand there would be more requests coming and that he would expect to hear from them and to work with them.

Councilmember Starling reiterated that he takes this matter very seriously and that he understood what was being said and that he was very much interested in the protection of children. He stated that this property will be developed and that what was proposed will be a high standard facility.

Mayor Ross said that school safety was a major concern and that he had met on several occasions with the Burlington Police force on this matter and he said the City's officers were well trained for special situations. He stated that this is an interstate piece of property that it is a most active quadrant of the interstate in Burlington and that this is a compatible use of the property.

07-13

ORDINANCE TO REZONE PROPERTY FOR FULL SERVICE HOTEL AND OFFICE BUILDING

BE IT ORDAINED by the City Council of the City of Burlington, North Carolina:

Section 1. That the official zoning map, an element of the Burlington Zoning Ordinance, and the Comprehensive Land Use Plan are hereby amended by rezoning from R-15, Residential District, to CPEC, Conditional Planned Employment Center, subject to those conditional uses with limitations as set forth in Sections 2, 3 and 4 of this ordinance the area described as follows:

Property located on the southwest corner of Danbrook Drive and Bonnar Bridge Parkway and being as shown on Alamance County Tax Map 3-23-44.

Section 2. That the rezoning from R-15 to CPEC is hereby authorized subject to the following Use and Development Conditions:

Use Conditions

1. Construction of a full service hotel and office building.
2. The office building shall adhere to associated and permitted commercial uses pursuant to Conditional Planned Employment Center zoning and according to applicable code requirements.

Development Conditions

Development conditions shall adhere to the submitted Zoning Sketch Plan prepared by Alley, Williams, Carmen and King, Inc.

Section 3. This property will be perpetually bound to the uses authorized and subject to such conditions as imposed including site plans and other submissions, unless subsequently changed or amended as provided for in the City of Burlington Zoning Ordinance.

Section 4. Any violations or failure to accept any conditions and use limitations imposed herein shall be subject to the remedies provided in the City of Burlington Code of Ordinances and Zoning Ordinance.

Section 5. That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

Section 6. That this ordinance shall take effect upon passage.

The foregoing ordinance was seconded by Councilmember Jones, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Jones, Huffman and Starling. Councilmember Wall abstained.

ITEM 6: REZONE PROPERTY - HAIR SALON - SOUTH O'NEAL STREET

Mayor Ross announced that a public hearing had been scheduled to consider rezoning from O-I, Office-Institutional District, to CB, Conditional Business District, to allow for a hair salon. The property is located on the east side of South O'Neal Street approximately 175 feet south of South Church Street and being as shown on Alamance County Tax Map 101-434-30.

Ms. Laura Brown, Allen Tate Realtors, representing Debbie Cox, who is purchasing the property pending the rezoning, was present.

Ms. Cox stated that she had owned her current location on South Church Street in Shadowbrook Plaza for 20 years and that it was under consideration to be purchased by Walgreen's. She stated that South O'Neal Street would be a prime location for her business because she wanted to downsize. She pointed out that the Planning and Zoning Commission unanimously approved the request.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to close the public hearing.

Councilmember Huffman moved the adoption of the following ordinance:

07-14

ORDINANCE TO REZONE PROPERTY ON SOUTH O'NEAL STREET FOR HAIR SALON

BE IT ORDAINED by the City Council of the City of Burlington, North Carolina:

Section 1. That the official zoning map, an element of the Burlington Zoning Ordinance, and the Comprehensive Land Use Plan

are hereby amended by rezoning from O-I, Office-Institutional District, to CB, Conditional Business District, subject to those conditional uses with limitations as set forth in Sections 2, 3 and 4 of this ordinance the area described as follows:

Property located on the east side of South O'Neal Street approximately 175 feet south of South Church Street and being as shown on Alamance County Tax Map 101-434-30.

Section 2. That the rezoning from O-I to CB is hereby authorized subject to the following Use and Development Conditions:

Use Conditions

Use shall be a hair styling salon.

Development Conditions

1. There shall be plumbing for three hair styling stations.
2. There shall be one handicapped parking space; 10 regular parking spaces; and a handicapped ramp at the entrance of the structure.
3. Handicapped restroom facilities shall be provided within the establishment.

Section 3. This property will be perpetually bound to the uses authorized and subject to such conditions as imposed including site plans and other submissions, unless subsequently changed or amended as provided for in the City of Burlington Zoning Ordinance.

Section 4. Any violations or failure to accept any conditions and use limitations imposed herein shall be subject to the remedies provided in the City of Burlington Code of Ordinances and Zoning Ordinance.

Section 5. That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

Section 6. That this ordinance shall take effect upon passage.

The foregoing ordinance was seconded by Councilmember Starling, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and

consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Jones, Huffman, Starling and Wall.

CITY MANAGER COMMENTS:

City Manager Owen reminded everyone that Special Olympics would be held Thursday at Elon University on April 19, 2007, beginning at 9:30 AM.

Mr. Owen asked City Councilmembers if there were initiatives or comments that they would like to give staff before a document was given to them in a budget work session in May.

Councilmember Wall requested information in reference to water and sewer rates from the 2000-01 budget year to the present.

Mayor Ross stated that Jordan Lake rules could have an impact on water and sewer rates, and Mr. Owen stated that it would not have an impact on the 2007-08 Budget. Mr. Owen stated that the water tower situation, and the need for a new water line on Mebane Street before widening it, increase in chemical costs and the Duke Power five percent increase would have an impact on the budget.

Councilmember Wall said that he would like to see the figures reflecting no increase versus increasing rates.

PUBLIC COMMENT PERIOD:

There were no public comments.

ADJOURN:

Upon motion by Councilmember Jones, seconded by Councilmember Starling, it was resolved unanimously to adjourn.

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Jondeen D. Terry  
City Clerk